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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2009-328

12 **MARIA AMALIA GONZALEZ**  
13 **25065 Brodiaea Street**  
14 **Moreno Valley, CA 92553**

**ACCUSATION**

15 **Registered Nurse License No. 622233**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about July 21, 2003, the Board of Registered Nursing issued Registered Nurse  
24 License Number 622233 to Maria Amalia Gonzalez (Respondent). The Registered Nurse License  
25 expired on November 30, 2006, and has not been renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

....

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

....

8. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

10. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

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## REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

...

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

## COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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**FIRST CAUSE FOR DISCIPLINE**

**(May 4, 2005 Criminal Conviction for Burglary & Forgery on May 2, 2005)**

14. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about May 4, 2005, in a criminal proceeding entitled *People of the State of California v. Maria Gonzalez, aka Yasmin Beltran*, in Riverside County Superior Court, case number RIM467204, Respondent was convicted on her plea of guilty of violating Penal Code section 459, burglary, and Penal Code section 475, subdivision (c), forgery, misdemeanors.

b. As a result of the conviction, on or about May 4, 2005, Respondent was sentenced to 20 days in the county jail, with credit for three days, summary probation for two years, and payment of fees, fines, and restitution in the amount of \$749. On or about April 24, 2006, following her arraignment in the matter described in paragraph 15, below, Respondent's probation was revoked and then reinstated on the same terms and conditions.

c. The facts that led to the conviction were that on or about the evening of May 2, 2005, a Riverside County Deputy Sheriff responded to a 9-1-1 call at a Moreno Valley business. The store's clerk told the deputy that Respondent presented him with a payroll check and requested he cash it. After having Respondent endorse the check and place her thumbprint on the reverse of the check, he ran the check through an electronic clearing machine that notified him the check was fake. The store clerk called 9-1-1 and stalled Respondent until law enforcement arrived. Respondent had signed the check with the name "Yazmin," however on her resident alien identification it was spelled "Yasmin." Respondent claimed the check came from a company where she had been employed for three weeks. She could not provide a street address or phone number for the company. Respondent was arrested.

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1 licenses. All of the licenses had the same photo, but the name, address and date of birth was  
2 different on each license. Also located was a checkbook which was later determined to be fake.  
3 Respondent was arrested and stated that she conspired with another female to produce fake  
4 identifications and checks and would split the profits on any cash and merchandise they obtained.  
5 The other female was never identified or located. Respondent further admitted to the deputy that  
6 she lied about a 2005 conviction for burglary and possession of fraudulent checks under the alias  
7 of Yasmin Beltran.

### 8 **THIRD CAUSE FOR DISCIPLINE**

#### 9 **(Unprofessional Conduct – Dishonesty, Fraud & Deceit)**

10 16. Respondent has subjected her license to disciplinary action under section 2761,  
11 subdivision (a) of the Code in that on or about May 2, 2005, and April 24, 2006, as described in  
12 paragraphs 14 and 15, above, Respondent committed acts of burglary, forgery, and possession of  
13 a forged driver's license, acts of dishonesty, fraud and deceit.

### 14 **FOURTH CAUSE FOR DISCIPLINE**

#### 15 **(May 14, 2007 Criminal Conviction for Possession of Controlled Substances &** 16 **Possession of Controlled Substances for Sale on April 22, 2007)**

17 17. Respondent has subjected her license to disciplinary action under sections 490 and  
18 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially  
19 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
20 follows:

21 a. On or about May 14, 2007, in a criminal proceeding entitled *People of the*  
22 *State of California v. Maria Amalia Gonzalez, aka Maria Amalia Alcala, aka Yasmin Beltran*, in  
23 Riverside County Superior Court, case number RIF136243, Respondent was convicted on her  
24 plea of guilty of violating Health and Safety Code sections 11377, subdivision (a), possession of  
25 controlled substances, and 11378, possession of controlled substances for sale, felonies. The  
26 remaining counts were dismissed in the furtherance of justice.

27 b. As a result of the conviction, on or about March 3, 2008, Respondent was  
28 sentenced to the upper term of three years in state prison, with credit for 39 days, and payment of

1 fees, fines, and restitution in the amount of \$420. The sentence was ordered to be served  
2 concurrent with the sentence imposed in case number RIF129860 (paragraph 15, above).

3 c. The facts that led to the conviction were that on or about the morning of  
4 April 22, 2007, a Riverside County Deputy Sheriff was dispatched to investigate suspicious  
5 activity at a Moreno Valley convenience store. The caller stated that a Hispanic male and female  
6 were attempting to start a KIA Sedona with a screwdriver. When the deputy approached the  
7 vehicle, he noted that Respondent was in the back row of seats of the KIA. Respondent told the  
8 deputy that she had driven the KIA to the store at 0400, and when she attempted to start it, the  
9 key had broken off in the ignition. She called her friend to assist her. The deputy attempted to  
10 contact the registered owner, but did not get a response to phone calls from dispatch. Under the  
11 seat where Respondent had been sitting was a blue suede purse. Since Respondent was subject to  
12 a Fourth Amendment waiver, the deputy searched the purse and located several small baggies and  
13 a large plastic bag containing methamphetamine. There was also a digital scale next to the purse.  
14 Respondent said the purse belonged to her but she had no idea where the drugs came from; she  
15 believed an unknown white male put the drugs in her purse. While speaking with Respondent,  
16 the deputy noted the she appeared to be under the influence of a central nervous system stimulant;  
17 she was fidgety and unable to sit still, she spoke rapidly in broken sentences, and had a heart rate  
18 of approximately 110 beats per minute. Respondent was arrested and transported to jail. During  
19 a search by a correctional deputy, a baggy containing 3.7 grams of methamphetamine was located  
20 inside Respondent's bra.

#### 21 **FIFTH CAUSE FOR DISCIPLINE**

##### 22 **(Unprofessional Conduct – Possession of a Controlled Substance)**

23 18. Respondent has subjected her license to disciplinary action under sections 2762,  
24 subdivision (a) of the Code in that on or about April 22, 2007, as described in paragraph 17,  
25 above, Respondent was found in possession of methamphetamine. Methamphetamine is a  
26 Schedule II controlled substance as designated by Health and Safety Code section 11055,  
27 subdivision (d)(2), and is a dangerous drug pursuant to Business and Professions Code section  
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1 4022. Such unprofessional conduct is substantially related to the qualifications, functions, and  
2 duties of a registered nurse.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Under the Influence of a Controlled Substance)**

5 19. Respondent has subjected her license to disciplinary action under sections 2762,  
6 subdivision (b) of the Code in that on or about April 22, 2007, as described in paragraph 17,  
7 above, Respondent was under the influence of methamphetamine, a Schedule II controlled  
8 substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and a  
9 dangerous drug pursuant to Business and Professions Code section 4022. Such use was to an  
10 extent or in a manner dangerous or injurious to herself and the public and is substantially related  
11 to the qualifications, functions, and duties of a registered nurse.


12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 622233, issued to Maria  
16 Amalia Gonzalez;
- 17 2. Ordering Maria Amalia Gonzalez to pay the Board of Registered Nursing the  
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
19 Professions Code section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21

22 DATED: 6/30/09

23 for

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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